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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/403,174	10/18/1999	PETER RUDLOFF	016072-00060	6937

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EXAMINER

LEE, DIANE I

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 06/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/403,174

Applicant(s)

RUDLOFF, PETER

Examiner

D. I. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-22, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-22, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Receipt is acknowledged of the Amendment filed 25 March 2003. Claims 13 and 23-24 have been canceled; claims 14-15 and 17-18 have been amended; and claims 25-26 have been newly added. Currently, claims 14-22 and 25-26 are pending in this application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 14-16, 18, 20-21, and 25-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Moed et al. [US 5,770,841-referred as Moed, previously cited by the examiner].

Re claims 14 and 25-26: Moed discloses a system 10 for identifying and authenticating operating substances (marking data on the top surface 34 of the package 20) for items of equipment,

the operating substances or their storage containers having a data carrier portion and provided with the first machine-readable product information 36 concerning the substance/package (i.e., the bar code information includes the package tracking information on the upper right region of the package's surface 34 (i.e., the first region of the substance's surface), and the second information (a destination address 38, 42) on the center right region of the package's surface 34 (i.e., the second region 40 of the substance's surface) that can be detected by human eye and is distinctive to a human viewer (see figure 2);

Figure 2 shows the first information is applied to the first region of the surface 34 of the package 20 and the second information is applied to the second region of the surface 34 of the package 20 or to the container for substance (see figure 2);

the items of equipment (i.e., the system for operating the packages or substances) being provided with an imaging system 12 as a reading device to read the first information and the second information on the package 20 (see col. 5, lines 1+; col. 11, lines 2+), and

a label decoding system 14 as an evaluating device for capturing the image on the surface of the package 20 having the first and the second region (see col. 5, lines 1+; col. 11, lines 2+; and figure 1);

a memory (not specifically shown) storing authorizing information for the substance (storing an information sample in the database which stores information correspond to the second information, such as a decoded destination address by reference to the U.S. postal service's Zip+4 for the package) (see col. 9, lines 29+);

the evaluating device 14 having a comparison means for comparing the reading information with a stored authorized information of origin (i.e., the decoded destination address by reference to the U.S. postal service's Zip+4 for the package stored in the database) as well as an enabling controller for at least one functional component of the item of equipment in such a way that if the read information coincides with the stored information, an enabling signal is supplied by the enabling controller to the functional component, which thereupon permits operation of the item of equipment and if the read information does not coincide with the stored information disables operation of the item of equipment (i.e., when the system is unable to verify a decoded destination address by reference to the U.S. postal service's Zip+4 for the package, the system disables the normal continuing the package processing by displaying the destination address image on the workstation, therefore, an operator can review and make a manual correction) (see the abstract; col. 9, lines 8+; and step 402 in figure 4).

Re claim 15: Figure 2 shows the data carrier portion of the substance 20 having a first region (i.e., the upper right region of the package's surface 34) where only the first information (i.e., a bar code data 36) is stored, and a second region (i.e., the center right region of the package's surface 34) where the second information (i.e., a destination address data 38 and a fiduciary mark 42 having pixel codes) is stored (see col. 5, lines 32+).

Re claims 16 and 20: wherein the data carrier portion includes at least one reference marking 42 for the orientation of the reading device (see col. 7, lines 55+; col. 11, lines 2+; and figure 2) and wherein the reference marking has a frame 40 (i.e., area or block defining the destination address block) reaching around the second region of the data carrier portion.

Re claim 18: the first region of the data carrier portion has a multiplicity of a binary pixel code lines (i.e., bars/spaces, 1s/0s, or high/low), the binary pixel code containing the only machine-readable information, and the second region of the data carrier portion has a plurality of lines of pixel code (i.e., the second region of the data carrier having a destination address image data 38 and a fiduciary mark 42 having a large circle and a small circle of pixel codes detectable by a camera) which together form the information that can be detected by the human eye and is distinctive to the human viewer (i.e., the destination address data having an image captured by a high resolution camera or a CCD with the application of optical character recognition techniques) (see col. 11, lines 37+).

Re claim 21: Moed states that the bar code may extend to a two-dimensional code (see col. 11, lines 10+). Upon providing two-dimensional bar code, the binary pixel code of a line in each adjacent lying row of the two-dimensional code would have a row of bit markings of the binary representation of an item of information.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moed. The teachings of Moed have been discussed above.

Re claim 17: Although Moed states that the second region is a destination address data 38 which typically consist of alphanumeric text thus the information can be detected by the human eye and is distinctive to the human viewer, Moed does not states that the second region is formed by a trademark.

Since the trade mark can be a name identifying a product, company name such a “coca-cola”, “Kellogg’s”, “3M company”, and etc. that is officially registered and legally restricted to use of the owner, the destination data having a name of the company which some of the company name may be officially registered and legally restricted to use. Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to recognize that the second region forms a trademark so long as the name is officially registered and legally restricted to use.

Re claim 19: Moed does not explicitly states the machine-readable limit marking.

Since the imaging system only reads and decode the image on the first and second region of the package, the third region of the top surface 34 of the package (surface other than the first and second region) serves as a machine-readable limit marking which preferably comprises at least one blank area provided between the first region of the data carrier portion and the second region of the data carrier portion. Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to recognize that the blank space on the top surface between the first and the second region is a machine-readable limit marking in order to distinguish the two different image.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moed in view of Kubo [US 5,422,470]. The teachings of Moed have been discussed above.

Moed does not explicitly teach the binary bit markings having a check digit additionally provided in each line for the binary representation of the information.

Kubo discloses a two dimensional stacked bar code (i.e., PDF-417 code) having a start code 22 and a stop code 23check used as a digit check for the binary representation of the information in each row (see col. 4, lines 56+figure 2).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the check digit in the bar code of Moed in order to validate the decoding operation. Furthermore, a conventional check digit or a check character (i.e., value is based on some mathematical relationship of the other characters in the symbol) placed in a predetermined position in a bar code symbol is well known for validating the decoding operation of the symbol by the scanner. Therefore, the binary bit markings having a check digit additionally provided in each line for the binary representation of the information would have been an obvious extension taught by Moed for facilitating the decoding process.

Response to Arguments

7. Applicant's arguments filed 25 March 2003 have been fully considered but they are not persuasive.

8. In response to applicant's argument with respect to Moed reference that Moed does not disclose nor suggests a control system for machinery which disables the machinery when a non-genuine substance is detected, wherein the detection is enhanced by using readily visible information, such as a trademark, for performing the authentication of the substance, and further stated that the visible address of Moed,

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itself is meaningless and, therefore, cannot be used by the operator to detect substances which should be rejected; the examiner respectfully disagrees. The claimed limitations includes

“a memory storing authorizing information for the substance” (in claim 25);

“storing an information sample which corresponds to the second information” (in claim 26); and

the read second information is compared with the stored data.

Therefore, Moed clearly teaches the address scanned is compared with an address in the U S postal Service's zip code +4 database. Therefore, given a broadest interpretation of the claim, Moed anticipates the claimed limitation (see the discussion above)

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. I. Lee whose telephone number is 703-306-3427. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

A handwritten signature in black ink, appearing to read "D. I. Lee".

D. I. Lee
Primary Examiner
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June 6, 2003